

**HB 2271 - S AMD 999**

By Senator Haugen

ADOPTED AND ENGROSSED 03/03/2010

1       Strike everything after the enacting clause and insert the  
2       following:

3       "NEW SECTION.   **Sec. 1.** It is the intent of the legislature that  
4       final recommendations from the joint transportation committee ferry  
5       study, submitted to the legislature during the 2009 regular legislative  
6       session, be enacted by the legislature and implemented by the  
7       department of transportation as soon as practicable in order to benefit  
8       from the efficiencies and cost savings identified in the  
9       recommendations. It is also the intent of the legislature to make  
10      various additional policy changes aimed at further efficiencies and  
11      cost savings. Since the study began in 2006, recommendations have been  
12      made with regard to long range planning and implementing the most  
13      efficient and effective balance between ferry capital and operating  
14      investments. It is intended that this act, the 2009-2011 omnibus  
15      transportation appropriations act, and subsequent transportation  
16      appropriations acts serve as vehicles for enacting these  
17      recommendations in order to maximize the utilization of existing  
18      capacity and to make the most efficient use of existing assets and tax  
19      dollars.

20      **Sec. 2.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read  
21      as follows:

22      (1) Terminal and vessel preservation funding requests shall only be  
23      for assets in the life-cycle cost model.

24      (2) Terminal and vessel preservation funding requests that exceed  
25      five million dollars per project must be accompanied by a predesign  
26      study. The predesign study must include all elements required by the  
27      office of financial management.

1       **Sec. 3.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read  
2 as follows:

3       The department shall develop terminal and vessel design standards  
4 that:

5       (1) Adhere to vehicle level of service standards as described in  
6 RCW 47.06.140;

7       (2) Adhere to operational strategies as described in RCW 47.60.327;  
8 and

9       (3) Choose the most efficient balance between capital and operating  
10 investments by using a life-cycle cost analysis.

11       **Sec. 4.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read  
12 as follows:

13       (1) The capital plan must adhere to the following:

14       (a) A current ridership demand forecast;

15       (b) Vehicle level of service standards as described in RCW  
16 47.06.140;

17       (c) Operational strategies as described in RCW 47.60.327; and

18       (d) Terminal and vessel design standards as described in RCW  
19 47.60.365.

20       (2) The capital plan must include the following:

21       (a) A current vessel preservation plan;

22       (b) A current systemwide vessel rebuild and replacement plan as  
23 described in RCW 47.60.377;

24       (c) A current vessel deployment plan; and

25       (d) A current terminal preservation plan that adheres to the life-  
26 cycle cost model on capital assets as described in RCW 47.60.345.

27       **Sec. 5.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read  
28 as follows:

29       (1) Terminal improvement, vessel improvement, and vessel  
30 acquisition project funding requests must adhere to the capital plan(~~(-~~

31 ~~(2)-Requests for terminal improvement design and construction~~  
32 ~~funding must~~)), include route-based planning, and be submitted with a  
33 predesign study that:

34       (a) Includes all elements required by the office of financial  
35 management;

1 (b) Separately identifies basic terminal and vessel elements  
2 essential for operation and their costs;

3 (c) Separately identifies additional elements to provide ancillary  
4 revenue and customer comfort and their costs;

5 (d) Includes construction phasing options that are consistent with  
6 forecasted ridership increases;

7 (e) Separately identifies additional elements requested by local  
8 governments and the cost and proposed funding source of those elements;

9 (f) Separately identifies multimodal elements and the cost and  
10 proposed funding source of those elements; ((and))

11 (g) Identifies all contingency amounts((-  
12 ~~(h)[(3)] When planning for new vessel acquisitions, the department~~  
13 ~~must evaluate the long term vessel operating costs related to fuel~~  
14 ~~efficiency and staffing))~~);

15 (h) Identifies any terminal, vessel, or other capital modifications  
16 that would be required as a result of the proposed capital project;

17 (i) Includes planned service modifications as a result of the  
18 proposed capital project, and the consistency of those service  
19 modifications with the capital plan; and

20 (j) Demonstrates the evaluation of long-term operating costs  
21 including fuel efficiency, staffing, and preservation.

22 (2) The department shall prioritize vessel preservation and  
23 acquisition funding requests over vessel improvement funding requests.

24 NEW SECTION. Sec. 6. A new section is added to chapter 47.60 RCW  
25 to read as follows:

26 (1) In addition to the requirements of RCW 47.60.385(1), initial  
27 requests for, and substantial modification requests to, vessel  
28 acquisition funding must be submitted with a predesign study that:

29 (a) Includes a business decision case on vessel sizing;

30 (b) Includes an updated vessel deployment plan demonstrating  
31 maximum use of existing vessels, and an updated systemwide vessel  
32 rebuild and replacement plan;

33 (c) Includes an analysis that demonstrates that acquiring a new  
34 vessel or improving an existing vessel is more cost-effective than  
35 other alternatives considered. At a minimum, alternatives explored  
36 must include:

1 (i) Alternatives to new vessel construction that increase capacity  
2 of existing vessels;

3 (ii) Service level changes in lieu of adding vessel capacity; and

4 (iii) Acquiring existing vessels or existing vessel plans rather  
5 than wholly new vessels or vessel plans; and

6 (d) Demonstrates that the vessel proposed for improvement,  
7 construction, or purchase, if intended to replace an existing vessel or  
8 to place an existing vessel into inactive or reserve status, is  
9 consistent with the scheduled replacements in the rebuild and  
10 replacement plan.

11 (2) In addition to the requirements of RCW 47.60.385(1), initial  
12 requests for, and substantial modification requests to, vessel  
13 improvement funding must be submitted with a predesign study that  
14 includes:

15 (a) An explanation of any regulatory changes necessitating the  
16 improvement;

17 (b) The requirements under subsection (1) of this section, if the  
18 improvement modifies the capacity of a vessel;

19 (c) A cost-benefit analysis of any modifications designed to  
20 improve fuel efficiency, including potential impacts on vessel  
21 maintenance and repair; and

22 (d) An assessment of out-of-service time associated with making the  
23 improvement and ongoing preservation of the improvement.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW  
25 to read as follows:

26 (1) The legislature finds measuring the performance of Washington  
27 state ferries requires the measurement of quality, timeliness, and unit  
28 cost of services delivered to customers. Consequently, the department  
29 must develop a set of metrics that measure that performance and report  
30 to the transportation committees of the house of representatives and  
31 senate and to the office of financial management on the development of  
32 these measurements along with recommendations to the 2011 legislature  
33 on which measurements must become a part of the next transportation  
34 budget.

35 (2) Annually, the department shall report to the transportation  
36 committees of the legislature statistics regarding its on-time arrival  
37 and departure status on a route-by-route and month-by-month basis, as

well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

**NEW SECTION. Sec. 8.** (1) Signage must be prominently displayed at each terminal and on each vessel that informs the public that assaults on Washington state employees will be prosecuted to the full extent of the law.

(2) The department shall investigate the frequency, severity, and prosecutorial results of assaults on Washington state ferries employees and, if appropriate, make recommendations to the transportation committees of the senate and house of representatives during the 2011 legislative session regarding methods to decrease the number of assaults on employees and procedures for prosecuting those who assault employees.

(3) This section expires June 30, 2011.

**Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

(1)(a) A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars(~~(- PROVIDED, That))~~).

(b) When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(c) When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

1        (d) To enable a larger number of small businesses, and minority,  
2 and women contractors to effectively compete for department of  
3 transportation contracts, the department may adopt rules providing for  
4 bids and award of contracts for the performance of work, or furnishing  
5 equipment, materials, supplies, or operating services whenever any work  
6 is to be performed and the engineer's estimate indicates the cost of  
7 the work would not exceed eighty thousand dollars and effective July 1,  
8 2005, one hundred thousand dollars.

9        (2) The rules adopted under this section:

10        ~~((+1))~~ (a) Shall provide for competitive bids to the extent that  
11 competitive sources are available except when delay of performance  
12 would jeopardize life or property or inconvenience the traveling  
13 public; and

14        ~~((+2))~~ (b) Need not require the furnishing of a bid deposit nor a  
15 performance bond, but if a performance bond is not required then  
16 progress payments to the contractor may be required to be made based on  
17 submittal of paid invoices to substantiate proof that disbursements  
18 have been made to laborers, material suppliers, mechanics, and  
19 subcontractors from the previous partial payment; and

20        ~~((+3))~~ (c) May establish prequalification standards and procedures  
21 as an alternative to those set forth in RCW 47.28.070, but the  
22 prequalification standards and procedures under RCW 47.28.070 shall  
23 always be sufficient.

24        (3) The department of transportation shall comply with such goals  
25 and rules as may be adopted by the office of minority and women's  
26 business enterprises to implement chapter 39.19 RCW with respect to  
27 contracts entered into under this chapter. The department may adopt  
28 such rules as may be necessary to comply with the rules adopted by the  
29 office of minority and women's business enterprises under chapter 39.19  
30 RCW.

31        (4)(a) For the period of July 1, 2010, through June 30, 2011, work  
32 for less than seventy-five thousand dollars may be performed on ferry  
33 vessels and terminals by state forces.

34        (b) The department shall hire a disinterested, third party to  
35 conduct an independent analysis to identify methods of reducing out-of-  
36 service times for vessel maintenance, preservation, and improvement  
37 projects. The analysis must include options to extend the hours and  
38 days of operation at Eagle Harbor maintenance facility, consolidating

1 work while vessels are at shipyards by having state forces perform  
2 services traditionally performed at Eagle Harbor at the shipyard, and  
3 decreasing the allowable time at shipyards. The analysis must also  
4 compare the out-of-service vessel times of performing services by state  
5 forces versus contracting out those services which in turn must be used  
6 to form a recommendation as to what the threshold of work performed on  
7 ferry vessels and terminals by state forces should be. This analysis  
8 must be presented to the transportation committees of the senate and  
9 house of representatives by December 1, 2010.

10 (c) The department shall develop a proposed ferry vessel  
11 maintenance, preservation, and improvement program and present it to  
12 the transportation committees of the senate and house of  
13 representatives by December 1, 2010. The proposed program must:

14 (i) Improve the basis for budgeting vessel maintenance,  
15 preservation, and improvement costs and for projecting those costs into  
16 a sixteen-year financial plan;

17 (ii) Limit the amount of planned out-of-service time to the  
18 greatest extent possible, including options associated with department  
19 staff as well as commercial shipyards; and

20 (iii) Be based on the service plan in the capital plan, recognizing  
21 that vessel preservation and improvement needs may vary by route.

22 (d) In developing the proposed ferry vessel maintenance,  
23 preservation, and improvement program, the department shall consider  
24 the following, related to reducing vessel out-of-service time:

25 (i) The costs compared to benefits of Eagle Harbor repair and  
26 maintenance facility operations options to include staffing costs and  
27 benefits in terms of reduced out-of-service time;

28 (ii) The maintenance requirements for on-vessel staff, including  
29 the benefits of a systemwide standard;

30 (iii) The costs compared to benefits of staff performing  
31 preservation or maintenance work, or both, while the vessel is  
32 underway, tied up between sailings, or not deployed;

33 (iv) A review of the department's vessel maintenance, preservation,  
34 and improvement program contracting process and contractual  
35 requirements;

36 (v) The costs compared to benefits of allowing for increased costs  
37 associated with expedited delivery;

1       (vi) A method for comparing the anticipated out-of-service time of  
2 proposed projects and other projects planned during the same  
3 construction period;

4       (vii) Coordination with required United States coast guard dry  
5 dockings;

6       (viii) A method for comparing how proposed projects relate to the  
7 service requirements of the route on which the vessel normally  
8 operates; and

9       (ix) A method for evaluating the ongoing maintenance and  
10 preservation costs associated with proposed improvement projects.

11       **Sec. 10.** RCW 47.64.006 and 1989 c 327 s 1 are each amended to read  
12 as follows:

13       The legislature declares that it is the public policy of the state  
14 of Washington to: (1) Provide continuous operation of the Washington  
15 state ferry system at reasonable cost to users; (2) efficiently provide  
16 levels of ferry service consistent with trends and forecasts of ferry  
17 usage; (3) promote harmonious and cooperative relationships between the  
18 ferry system and its employees by permitting ferry employees to  
19 organize and bargain collectively; (4) protect the citizens of this  
20 state by assuring effective and orderly operation of the ferry system  
21 in providing for their health, safety, and welfare; (5) prohibit and  
22 prevent all strikes or work stoppages by ferry employees; (6) protect  
23 the rights of ferry employees with respect to employee organizations;  
24 and (7) promote just and fair compensation, benefits, and working  
25 conditions for ferry system employees ~~((as compared with public and~~  
26 ~~private sector employees in states along the west coast of the United~~  
27 ~~States, including Alaska, and in British Columbia in directly~~  
28 ~~comparable but not necessarily identical positions))~~.

29       **Sec. 11.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read  
30 as follows:

31       (1) The employer and ferry system employee organizations, through  
32 their collective bargaining representatives, shall meet at reasonable  
33 times, to negotiate in good faith with respect to wages, hours, working  
34 conditions, insurance, and health care benefits as limited by RCW  
35 47.64.270, and other matters mutually agreed upon. Employer funded  
36 retirement benefits shall be provided under the public employees



1 retirement system under chapter 41.40 RCW and shall not be included in  
2 the scope of collective bargaining. Any retirement system or  
3 retirement benefits shall not be subject to collective bargaining.

4 (2) Upon ratification of bargaining agreements, ferry employees are  
5 entitled to an amount equivalent to the interest earned on retroactive  
6 compensation increases. For purposes of this section, the interest  
7 earned on retroactive compensation increases is the same monthly rate  
8 of interest that was earned on the amount of the compensation increases  
9 while held in the state treasury. The interest will be computed for  
10 each employee until the date the retroactive compensation is paid, and  
11 must be allocated in accordance with appropriation authority. The  
12 interest earned on retroactive compensation is not considered part of  
13 the ongoing compensation obligation of the state and is not  
14 compensation earnable for the purposes of chapter 41.40 RCW.  
15 Negotiations shall also include grievance procedures for resolving any  
16 questions arising under the agreement, which shall be embodied in a  
17 written agreement and signed by the parties.

18 (3) Except as otherwise provided in this chapter, if a conflict  
19 exists between an executive order, administrative rule, or agency  
20 policy relating to wages, hours, and terms and conditions of employment  
21 and a collective bargaining agreement negotiated under this chapter,  
22 the collective bargaining agreement shall prevail. A provision of a  
23 collective bargaining agreement that conflicts with the terms of a  
24 statute is invalid and unenforceable.

25 **Sec. 12.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read  
26 as follows:

27 (1) Any ferry employee organization certified as the bargaining  
28 representative shall be the exclusive representative of all ferry  
29 employees in the bargaining unit and shall represent all such employees  
30 fairly.

31 (2) A ferry employee organization or organizations and the governor  
32 may each designate any individual as its representative to engage in  
33 collective bargaining negotiations.

34 (3) Negotiating sessions, including strategy meetings of the  
35 employer or employee organizations, mediation, and the deliberative  
36 process of arbitrators are exempt from the provisions of chapter 42.30

1 RCW. Hearings conducted by arbitrators may be open to the public by  
2 mutual consent of the parties.

3 (4) Terms of any collective bargaining agreement may be enforced by  
4 civil action in Thurston county superior court upon the initiative of  
5 either party.

6 (5) Ferry system employees or any employee organization shall not  
7 negotiate or attempt to negotiate directly with anyone other than the  
8 person who has been appointed or authorized a bargaining representative  
9 for the purpose of bargaining with the ferry employees or their  
10 representative.

11 (6)(a) Within ten working days after the first Monday in September  
12 of every odd-numbered year, the parties shall attempt to agree on an  
13 interest arbitrator to be used if the parties are not successful in  
14 negotiating a comprehensive collective bargaining agreement. If the  
15 parties cannot agree on an arbitrator within the ten-day period, either  
16 party may request a list of seven arbitrators from the federal  
17 mediation and conciliation service. The parties shall select an  
18 interest arbitrator using the coin toss/alternate strike method within  
19 thirty calendar days of receipt of the list. Immediately upon  
20 selecting an interest arbitrator, the parties shall cooperate to  
21 reserve dates with the arbitrator for potential arbitration between  
22 August 1st and September 15th of the following even-numbered year. The  
23 parties shall also prepare a schedule of at least five negotiation  
24 dates for the following year, absent an agreement to the contrary. The  
25 parties shall execute a written agreement before November 1st of each  
26 odd-numbered year setting forth the name of the arbitrator and the  
27 dates reserved for bargaining and arbitration. This subsection (6)(a)  
28 imposes minimum obligations only and is not intended to define or limit  
29 a party's full, good faith bargaining obligation under other sections  
30 of this chapter.

31 (b) The negotiation of a proposed collective bargaining agreement  
32 by representatives of the employer and a ferry employee organization  
33 shall commence on or about February 1st of every even-numbered year.

34 (c) For negotiations covering the 2009-2011 biennium and subsequent  
35 biennia, the time periods specified in this section, and in RCW  
36 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of  
37 all agreements on or before October 1st of the even-numbered year next  
38 preceding the biennial budget period during which the agreement should

1 take effect. These time periods may only be altered by mutual  
2 agreement of the parties in writing. Any such agreement and any  
3 impasse procedures agreed to by the parties under RCW 47.64.200 must  
4 include an agreement regarding the new time periods that will allow  
5 final resolution by negotiations or arbitration by October 1st of each  
6 even-numbered year.

7 ~~(7) ((Until a new collective bargaining agreement is in effect, the~~  
8 ~~terms and conditions of the previous collective bargaining agreement~~  
9 ~~shall remain in force.))~~ It is the intent of this section that the  
10 collective bargaining agreement or arbitrator's award shall commence on  
11 July 1st of each odd-numbered year and shall terminate on June 30th of  
12 the next odd-numbered year to coincide with the ensuing biennial budget  
13 year, as defined by RCW 43.88.020(7), to the extent practical. It is  
14 further the intent of this section that all collective bargaining  
15 agreements be concluded by October 1st of the even-numbered year before  
16 the commencement of the biennial budget year during which the  
17 agreements are to be in effect. After the expiration date of a  
18 collective bargaining agreement negotiated under this chapter, all of  
19 the terms and conditions specified in the collective bargaining  
20 agreement remain in effect until the effective date of a subsequently  
21 negotiated agreement, not to exceed one year from the expiration date  
22 stated in the agreement. Thereafter, the employer may unilaterally  
23 implement according to law.

24 (8)(a) The governor shall submit a request either for funds  
25 necessary to implement the collective bargaining agreements including,  
26 but not limited to, the compensation and fringe benefit provisions or  
27 for legislation necessary to implement the agreement, or both.  
28 Requests for funds necessary to implement the collective bargaining  
29 agreements shall not be submitted to the legislature by the governor  
30 unless such requests:

31 (i) Have been submitted to the director of the office of financial  
32 management by October 1st before the legislative session at which the  
33 requests are to be considered; and

34 (ii) Have been certified by the director of the office of financial  
35 management as being feasible financially for the state.

36 (b) The governor shall submit a request either for funds necessary  
37 to implement the arbitration awards or for legislation necessary to  
38 implement the arbitration awards, or both. Requests for funds

1 necessary to implement the arbitration awards shall not be submitted to  
2 the legislature by the governor unless such requests have been  
3 submitted to the director of the office of financial management by  
4 October 1st before the legislative session at which the requests are to  
5 be considered. Requests for funds necessary to implement the  
6 arbitration awards shall not be submitted to the legislature by the  
7 governor unless such requests:

8 (i) Have been submitted to the director of the office of financial  
9 management by October 1st before the legislative session at which the  
10 requests are to be considered; and

11 (ii) Have been certified by the director of the office of financial  
12 management as being feasible financially for the state.

13 (c) The legislature shall approve or reject the submission of the  
14 request for funds necessary to implement the collective bargaining  
15 agreements or arbitration awards as a whole for each agreement or  
16 award. The legislature shall not consider a request for funds to  
17 implement a collective bargaining agreement or arbitration award unless  
18 the request is transmitted to the legislature as part of the governor's  
19 budget document submitted under RCW 43.88.030 and 43.88.060. If the  
20 legislature rejects or fails to act on the submission, either party may  
21 reopen all or part of the agreement and award or the exclusive  
22 bargaining representative may seek to implement the procedures provided  
23 for in RCW 47.64.210 and 47.64.300.

24 (9) If, after the compensation and fringe benefit provisions of an  
25 agreement or arbitration award are approved by the legislature, a  
26 significant revenue shortfall occurs resulting in reduced  
27 appropriations, as declared by proclamation of the governor or by  
28 resolution of the legislature, both parties shall immediately enter  
29 into collective bargaining for a mutually agreed upon modification of  
30 the agreement or award.

31 **Sec. 13.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read  
32 as follows:

33 As the first step in the performance of their duty to bargain, the  
34 employer and the employee organization shall endeavor to agree upon  
35 impasse procedures. ~~((Unless otherwise agreed to by the employee~~  
36 ~~organization and the employer in their impasse procedures, the~~  
37 ~~arbitrator or panel is limited to selecting the most reasonable offer,~~

1 ~~in its judgment, of the final offers on each impasse item submitted by~~  
2 ~~the parties.))~~ The arbitrator shall make written findings of fact and  
3 a written determination of the issues in dispute, based on the evidence  
4 presented. The employee organization and the employer may mutually  
5 agree to the impasse procedure under which the arbitrator or panel may  
6 issue a decision it deems just and appropriate with respect to each  
7 impasse item. If the parties fail to agree upon impasse procedures  
8 under this section, the impasse procedures provided in RCW 47.64.210  
9 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful  
10 for either party to refuse to participate in the impasse procedures  
11 provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through  
12 47.64.320.

13 **Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to  
14 read as follows:

15 (1) There is created the marine employees' commission. The  
16 governor shall appoint the commission with the consent of the senate.  
17 The commission shall consist of three members: One member to be  
18 appointed from labor, one member from industry, and one member from the  
19 public who has significant knowledge of maritime affairs. The public  
20 member shall be chair of the commission. One of the original members  
21 shall be appointed for a term of three years, one for a term of four  
22 years, and one for a term of five years. Their successors shall be  
23 appointed for terms of five years each, except that any person chosen  
24 to fill a vacancy shall be appointed only for the unexpired term of the  
25 member whom he or she succeeds. Commission members are eligible for  
26 reappointment. Any member of the commission may be removed by the  
27 governor, upon notice and hearing, for neglect of duty or malfeasance  
28 in office, but for no other cause. Commission members are not eligible  
29 for state retirement under chapter 41.40 RCW by virtue of their service  
30 on the commission. Members of the commission shall be compensated in  
31 accordance with RCW 43.03.250 and shall receive reimbursement for  
32 official travel and other expenses at the same rate and on the same  
33 terms as provided for the transportation commission by RCW 47.01.061.  
34 The payments shall be made from the Puget Sound ferry operations  
35 account.

36 (2) The commission shall: (a) Adjust all complaints, grievances,  
37 and disputes between labor and management arising out of the operation

1 of the ferry system as provided in RCW 47.64.150; (b) provide for  
2 impasse mediation as required in RCW 47.64.210; and (c) (~~provide~~  
3 ~~salary surveys as required in RCW 47.64.220; and (d))~~) perform those  
4 duties required in RCW 47.64.300.

5 (3)(a) In adjudicating all complaints, grievances, and disputes,  
6 the party claiming labor disputes shall, in writing, notify the  
7 commission, which shall make careful inquiry into the cause thereof and  
8 issue an order advising the ferry employee, or the ferry employee  
9 organization representing him or her, and the department of  
10 transportation, as to the decision of the commission.

11 (b) The parties are entitled to offer evidence relating to disputes  
12 at all hearings conducted by the commission. The orders and awards of  
13 the commission are final and binding upon any ferry employee or  
14 employees or their representative affected thereby and upon the  
15 department.

16 (c) The commission shall adopt rules of procedure under chapter  
17 34.05 RCW.

18 (d) The commission has the authority to subpoena any ferry employee  
19 or employees, or their representatives, and any member or  
20 representative of the department, and any witnesses. The commission  
21 may require attendance of witnesses and the production of all pertinent  
22 records at any hearings held by the commission. The subpoenas of the  
23 commission are enforceable by order of any superior court in the state  
24 of Washington for the county within which the proceeding may be  
25 pending. The commission may hire staff as necessary, appoint  
26 consultants, enter into contracts, and conduct studies as reasonably  
27 necessary to carry out this chapter.

28 **Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to  
29 read as follows:

30 (1) The mediator, arbitrator, or arbitration panel may consider  
31 only matters that are subject to bargaining under this chapter, except  
32 that health care benefits are not subject to interest arbitration.

33 (2) The decision of an arbitrator or arbitration panel is not  
34 binding on the legislature and, if the legislature does not approve the  
35 funds necessary to implement provisions pertaining to compensation and  
36 fringe benefit provisions of an arbitrated collective bargaining

1 agreement, is not binding on the state, the department of  
2 transportation, or the ferry employee organization.

3 (3) In making its determination, the arbitrator or arbitration  
4 panel shall be mindful of the legislative purpose under RCW 47.64.005  
5 and 47.64.006 and, as additional standards or guidelines to aid it in  
6 reaching a decision, shall take into consideration the following  
7 factors:

8 (a) The financial ability of the department to pay for the  
9 compensation and fringe benefit provisions of a collective bargaining  
10 agreement;

11 (b) Past collective bargaining contracts between the parties  
12 including the bargaining that led up to the contracts;

13 ~~((b))~~ (c) The constitutional and statutory authority of the  
14 employer;

15 ~~((c))~~ (d) Stipulations of the parties;

16 ~~((d) - The results of the salary survey as required in RCW~~  
17 ~~47.64.220;~~

18 ~~(e) Comparison of wages, hours, employee benefits, and conditions~~  
19 ~~of employment of the involved ferry employees with those of public and~~  
20 ~~private sector employees in states along the west coast of the United~~  
21 ~~States, including Alaska, and in British Columbia doing directly~~  
22 ~~comparable but not necessarily identical work, giving consideration to~~  
23 ~~factors peculiar to the area and the classifications involved;~~

24 ~~(f))~~ (e) Changes in any of the foregoing circumstances during the  
25 pendency of the proceedings;

26 ~~((g))~~ (f) The limitations on ferry toll increases and operating  
27 subsidies as may be imposed by the legislature; ~~(and~~

28 ~~(h))~~ (g) The ability of the state to retain ferry employees;

29 (h) Comparison of wages, hours, employee benefits, and conditions  
30 of employment of the involved ferry employees with those of other  
31 public employees in the state;

32 (i) The overall compensation presently received by the ferry  
33 employees, including direct wage compensation, vacations, holidays and  
34 other paid excused time, pensions, insurance benefits, and all other  
35 direct or indirect monetary benefits received;

36 (j) The implicit price deflator for personal consumption index; and

37 (k) Other factors that are normally or traditionally taken into

1 consideration in the determination of matters that are subject to  
2 bargaining under this chapter.

3 NEW SECTION. **Sec. 16.** A new section is added to chapter 47.60 RCW  
4 to read as follows:

5 The department shall not allow free passage on any ferry vessel  
6 operated by the department to:

7 (1) Any department employee unless it is directly related to the  
8 employee's job duties, directly reporting to duty, or directly  
9 returning home from duty;

10 (2) Any former department employee or their families; or

11 (3) Any department employee's family members.

12 The department shall not reimburse any department employee for  
13 mileage or travel time costs for commuting between the employee's home  
14 residence and work assignment when the employee bids on the work  
15 assignment location.

16 NEW SECTION. **Sec. 17.** The following acts or parts of acts are  
17 each repealed:

18 (1) RCW 47.61.010 (Authority to enter into agreement and apply for  
19 financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

20 (2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and  
21 1965 ex.s. c 56 s 2;

22 (3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965  
23 ex.s. c 56 s 3;

24 (4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--  
25 Negotiable instruments) and 1965 ex.s. c 56 s 4;

26 (5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--  
27 Legal investment for state funds) and 1965 ex.s. c 56 s 5;

28 (6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965  
29 ex.s. c 56 s 6;

30 (7) RCW 47.61.070 (Statement describing nature of bond obligation--  
31 Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

32 (8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant  
33 agreement) and 1965 ex.s. c 56 s 8;

34 (9) RCW 47.61.090 (Designation of funds to repay bonds and  
35 interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;



1 (10) RCW 47.61.100 (Bond repayment procedure--Highway bond  
2 retirement fund) and 1965 ex.s. c 56 s 10;

3 (11) RCW 47.61.110 (Sums in excess of bond retirement  
4 requirements--Use) and 1965 ex.s. c 56 s 11;

5 (12) RCW 47.60.240 (Liability to persons other than shippers or  
6 passengers--Limitation) and 1984 c 7 s 318 & 1961 c 13 s 47.60.240;

7 (13) RCW 47.60.395 (Evaluation of cost allocation methodology and  
8 preservation and improvement costs--Exception) and 2009 c 470 s 707 &  
9 2007 c 512 s 15;

10 (14) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998  
11 c 166 s 1;

12 (15) RCW 47.60.652 (Passenger-only ferry service--Vessel and  
13 terminal acquisition, procurement, and construction) and 1998 c 166 s  
14 2;

15 (16) RCW 47.60.654 (Passenger-only ferry service--Contingency) and  
16 1998 c 166 s 3;

17 (17) RCW 47.60.658 (Passenger-only ferry service between Vashon and  
18 Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

19 (18) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c  
20 493 s 1;

21 (19) RCW 47.60.772 (Jumbo ferry construction--Bidding documents)  
22 and 1993 c 493 s 2;

23 (20) RCW 47.60.774 (Jumbo ferry construction--Procedure on  
24 conclusion of evaluation) and 1993 c 493 s 4;

25 (21) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c  
26 493 s 5;

27 (22) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low  
28 bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6; and

29 (23) RCW 47.60.780 (Jumbo ferry construction--Propulsion system  
30 acquisition) and 1994 c 181 s 2.

31 NEW SECTION. **Sec. 18.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 19.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the  
2 state government and its existing public institutions, and takes effect  
3 immediately."

**HB 2271** - S AMD

By Senator Haugen

**ADOPTED AND ENGROSSED 03/03/2010**

4 On page 1, line 2 of the title, after "terminals;" strike the  
5 remainder of the title and insert "amending RCW 47.60.355, 47.60.365,  
6 47.60.375, 47.60.385, 47.28.030, 47.64.006, 47.64.120, 47.64.170,  
7 47.64.200, 47.64.280, and 47.64.320; adding new sections to chapter  
8 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020,  
9 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080,  
10 47.61.090, 47.61.100, 47.61.110, 47.60.240, 47.60.395, 47.60.649,  
11 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774,  
12 47.60.776, 47.60.778, and 47.60.780; providing an expiration date; and  
13 declaring an emergency."

--- END ---